

ESTTA Tracking number: **ESTTA624786**

Filing date: **09/02/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204861
Party	Plaintiff Red Bull GmbH
Correspondence Address	MARTIN R GREENSTEIN TECHMARK A LAW CORPORATION 4820 HARWOOD ROAD, 2ND FLOOR SAN JOSE, CA 95124 5273 UNITED STATES MRG@TechMark.com, LZH@TechMark.com, AMR@TechMark.com
Submission	Motion for Sanctions
Filer's Name	Leah Z. Halpert
Filer's e-mail	LZH@TechMark.com
Signature	/Leah Z. Halpert/
Date	09/02/2014
Attachments	ANDALE ENERGY DRINK-Cons 91204861-Mtn for Sanctions & Mtn to Compel Exhibits.pdf(796853 bytes)

Exhibit A

RED BULL GMBH,)	Consolidated Opposition No. 91-204,861
)	Opposition No. 91-204,861
Opposer)	Opposition No. 91-210,860
)	
v.)	Trademarks:
)	ANDALE! ENERGY DRINK & Des (#85/334,836)
JEAN PIERRE BIANE and)	ANDALE! & Design (#85/646,359)
ANDALE ENERGY DRINK CO)	ANDALE! & Design (#85/646,316)
LLC,)	
)	Serial Nos.:
)	85/334,836
Applicant.)	85/646,359
)	85/646,316

Pursuant to Trademark Rule of Practice Rule 2.120 and Federal Rule of Civil Procedure Rule 34, Opposer, Red Bull GmbH (“Red Bull”, or “Opposer”), hereby requests that Applicants, Jean Pierre Biane and Andale Energy Drink Co., LLC (hereinafter collectively referred to as “Applicant”) produce for inspection and copying, in accordance with the definitions and instructions contained herein, all documents and tangible things identified below. Such documents and things shall be produced within thirty days of service of these Requests for Production of Documents and Things to Opposer, at Opposer’s Attorney of Record’s Address: 4820 Harwood Road, 2nd Floor, San Jose, CA 95124.

The following definitions are an integral part of each and every request, and are incorporated therein by reference:

1

predecessors in title and/or interest, including successors and assigns, and all persons employed by any and all of the foregoing entities or individuals, including but not limited to attorneys, consultants, experts, investigators, agents, or other persons acting on behalf of or in concert with Applicant.

2. “Person” means any natural person and any governmental unit or agency, corporation, partnership, firm, joint venture, sole proprietorship or other legal or business entity of any kind.

3. To “identify” or “state” the identity of a person, if that person is a natural person, means to state:

- (a) His or her name and all other names by which he or she is referred;
- (b) His or her present or last known residence address and telephone number;
- (c) His or her present or last known business or occupational address and telephone number;
- (d) His or her present or last known occupation, position, and business or governmental affiliation;
- (e) Whether he or she has ever been employed or engaged by you, and, if so, the dates of employment or engagement and a brief description of his or her job titles, capacities, and responsibilities during the time of such employment or engagement.

4. To “identify” or “state” the identity of a person, if that person is not a natural person, means to:

- (a) State its full name and specify its nature (e.g., corporation, partnership, governmental entity, etc.);
- (b) State its present or last known principal address;
- (c) If it is a corporation, set forth the state of its incorporation, and identify the

principal officers of said corporation;

- (d) If it is a partnership, state whether it is a general or limited partnership, and identify each general or limited partner;
- (e) In the case of any other business or governmental entity, identify each owner and/or director.

5. "Document" means the original and any non-identical copy (which is different from the original or any copy because of notations thereon or attached thereto or otherwise) of any written, printed, typewritten, handwritten or recorded matter however produced, reproduced or recorded, including without limitation, computer software, disks and disk labels, user guides and other manuals and documentation shipped with computer software, packaging, letters, correspondence, telegrams, electronic mail, instant messages, SMS or other text message communications, any other form of communications, reports, studies, diaries, minutes, maps, time sheets or logs, computer data, pamphlets, advertisements, circulars, trade letters, press releases, articles, notes, charts, calendars, tabulations, workbooks, analyses, bank records, income tax records, ledgers, books of account, statistical information accumulations, records of meetings and conversations of any kind, drafts and revisions of drafts of documents, drafts of articles or advertisements written for others for use in creation of any papers, documents, articles or promotional materials for Applicant, film impressions, photographs, magnetic tape, disks, sound or mechanical reproductions, recordings, receipts, contracts, agreements, purchase orders, purchase order acknowledgments, invoices, advertisements, receipts, drawings, vouchers, charge slips, freight bills, annual reports and telephone records, which is or was at any time in your possession, custody or control or known or believed by you to exist or to have existed. Without limitation, as used in this definition, a document is deemed to be or to have been in your "control" if you have or had the right to secure the document or a copy thereof from another person or governmental entity, including without limitation attorneys, having actual physical

possession thereof.

6. To “identify” or “state the identity of” a document means to state with respect thereto:

- (a) The nature or type of the document (e.g., letter, contract, etc.) and any official identifying number such as a serial no., registration no., filing no. or other unique identification marking(s) and the agency or entity which applied or assigned such marking(s);
- (b) Its date, and if it bears no date, the date when it was prepared;
- (c) The identity of its author, each signatory or person over whose name it is issued, and each person who received, approved or commented on it;
- (d) The identity of all persons to whom the document was addressed or distributed;
- (e) The last known physical location and address of the original and each copy, and the identity of its custodian(s);
- (f) The general subject matter or content of the document with sufficient particularity to enable it to be identified;
- (g) If the document was, but is no longer, in your possession or subject to your control (e.g., because it has been lost, destroyed, transmitted to another person, etc.), state what disposition was made of it, the date of such disposition, and the reasons for such disposition;

7. “Oral communication” means any meeting, conference, verbal exchange, comment or statement for which one or more persons were within hearing, including communication by telephone or other means of oral communication.

8. To “identify” an oral communication means to:

- (a) Identify each person who participated in or was present at the communication;
- (b) State the date and place of the communication;

- (c) Set forth the substance of what was said by each person speaking at or during the communication;
- (d) State the means or medium through which the communication was made (e.g., in person, telephone, cellular telephone, SMS or text message, other messaging system, etc.);
- (e) Identify each person or entity represented or purportedly represented by the persons participating in or present at the communication;
- (f) Identify each document relating to, concerning, referring to, or purporting to summarize or set forth all or any part of the communication.

9. The terms “trademark”, “service mark” and “mark” each include trademarks, service marks, trade names, corporate names and use of terms analogous to use as a trademark or service mark (and include use of a word or symbol alone or in combination with other words or symbols).

10. The terms “concern” or “concerning” as used in these requests include communications, documents, or meetings, of any kind, that bear upon, describe, discuss, evidence, mention, pertain, refer, reflect, or relate, directly or indirectly, to the stated topic. Documents may have been created, dispatched, distributed, filed or maintained so as to be contemporaneous, responsive, contiguous, attached, incorporated or to cover relevant documents, and are as such within the scope of these discovery requests. With respect to any document requested below for which a claim of privilege, work product or confidentiality is made, specify (in log form) the nature of the document, identify by name, address, title and business affiliation, the writer, the addressee and all recipients thereof, and set forth the general subject matter to which the document relates, and its date.

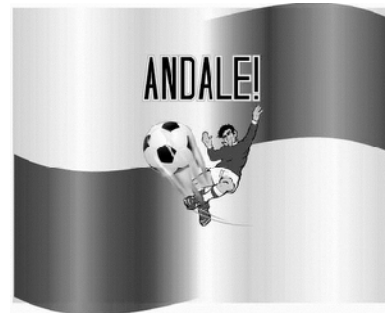
11. Use “on or in connection with” a product or service as used herein means use as a trademark in a manner sufficient to satisfy the use and maintenance requirements for registration

of a mark under the Lanham Act.

12. As used herein, “Applicant’s Marks” shall collectively mean, and include, the marks ANDALE! ENERGY DRINK & 4-Quadrant Design of Appln. No. 85/334,836, ANDALE! & 4-Quadrant Design of Appln. No. 85/646,316, and ANDALE! & 3-Stripe Design of Appln. No. 85/646,359 (shown below), alone, together, or in combination with any other words, symbols, graphics or designs as a trademark, service mark, trade name, corporate name or otherwise.



Applicant’s mark of Appln. #85/334,836

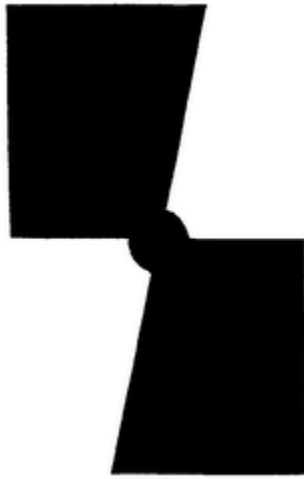


Applicant’s mark of Appln. #85/646,316



Applicant’s mark of Appln. #85/646,359

13. As used herein, “Opposer’s 4-Quadrant Design Mark” shall mean and include the mark of U.S. Trademark Registration No. 2,829,269 (as seen below):



Opposer's 4-Quadrant Design Mark of Reg. #2,829,269

Applicant shall separately identify the request by number pursuant to which each document is produced.

A written response to this request is required pursuant to Federal Rule 34.

REQUESTS FOR PRODUCTION

1. Documents sufficient to show all current and past advertising and promotional campaigns including, but not limited to, journals, catalogues, circulars, leaflets, direct mail pieces newspaper and magazine advertisements, telephone book advertisements, press releases and electronic media, and specimens sufficient to show all prototypes for said advertising and promotion.
2. Documents sufficient to show all current and planned labels and packaging that may ultimately be seen by consumers, as well as all prototypes and/or drafts and sketches for said labels and packaging.
3. Documents sufficient to show the design process, creation and adoption of said labels, packaging, advertising, and promotional campaigns created or used by You or on Your behalf, bearing Applicant's Marks.
4. Documents and things sufficient to show the creation, selection, and adoption process by

- You of Applicant's Marks and why the 4-quadrant design (as shown in Appln. No. 85/334,836), the 4-quadrant design (as shown in Appln. No. 85/646,316) and the 3-stripe design (as shown in Appln. No. 85/646,359) were chosen, including any documents and correspondence from any third party graphic designer or ad agency who created the mark.
5. Documents sufficient to identify each person, including, but not limited to, employees of Applicant and its affiliates, involved in the decision to adopt, use and/or seek trademark registration protection for Applicant's Marks.
 6. All documents concerning any investigations to use or apply to register Applicant's Marks including, but not limited to clearance and investigative searches for service marks, trademarks, trade names, or corporate names.
 7. All documents referring to or discussing any correspondence, telephone calls, oral discussions, meetings, messages, SMS or text messages, e-mails or other communications or contacts with any person or entity (other than your attorneys) concerning Opposer, Opposer's 4-Quadrant Design Mark, or any similarity, conflict or confusion between Applicant's Marks and Opposer or Opposer's 4-Quadrant Design Mark.
 8. All documents concerning Your first knowledge pertaining to Opposer or Opposer's 4-Quadrant Design Mark.
 9. All documents referring to or discussing Your awareness of Opposer or Opposer's 4-Quadrant Design Mark.
 10. All documents which evidence or support each of Applicant's admissions contained in its Answer to the Amended Notice Opposition for Opposition #91-204,861 (the "Parent Opposition").
 11. All documents which evidence or support each of Applicant's denials contained in its Answer to the Amended Notice of Opposition for the Parent Opposition.
 12. All documents which evidence or support each of Applicant's affirmative defenses

contained in ¶¶23-27 and 31-34 of its Answer to the Amended Notice of Opposition for the Parent Opposition.

13. All documents which evidence or support each of Applicant's admissions contained in its Answer to the Notice of Opposition for Opposition #91-210,860 (the "Child Opposition").
14. All documents which evidence or support each of Applicant's denials contained in its Answer to the Notice of Opposition for the Child Opposition.
15. Documents sufficient to identify all types of products currently or previously offered, marketed or sold under Applicant's Marks, by You or on Your behalf.
16. All documents and things concerning or relating to all current, commercial use by You of Applicant's Marks on any goods or services.
17. Documents sufficient to identify all the types of products or services planned to be offered, marketed or sold under Applicant's Marks, by You or on Your behalf.
18. Documents sufficient to evidence any marketing or sales meetings, both prior to the time of filing and since filing Applicant's Marks, regarding the future marketing or sale of products and/or services under Applicant's Mark.
19. Documents sufficient to evidence any authorization, license, contract, or permission between Jean Pierre Biane and/or any individual an/or entity (including Opposer) by which Andale Energy Drink Co., LLC is given rights to distribute goods bearing Applicant's Marks.
20. Documents sufficient to evidence any assignment, consent, authorization, license, contract, loan, security agreement, or permission between Jean Pierre Biane and/or any individual and/or entity (including Opposer) by which Andale Energy Drink Co., LLC granted or acquired rights and/or permission to use and/or register Applicant's Marks.
21. Documents sufficient to evidence, refer or relate to any objection, cease and desist letter

- or complaint relating to the marks of Appln. Nos. 85/334,836, 85/646,316 and 85/646,359, however used, both prior to filing or since filing Applicant's Marks, by or on behalf of any person or entity, whether brought by or against Applicant or any affiliate.
22. All documents which refer or relate to any administrative proceedings or litigation, in the courts, the U.S. Patent and Trademark Office or elsewhere, involving the marks of Appln. Nos. 85/334,836, 85/646,316 and 85/646,359, whether brought by or against Applicant or any affiliate.
 23. All documents relating or referring to any instance in which Applicant has been aware of, or made aware of, a person being confused, mistaken, or deceived as to the source of Applicant's products or services advertised, promoted offered for sale or sold using the marks of Appln. Nos. 85/334,836, 85/646,316 and 85/646,359, whether brought prior to filing or since filing Applicant's Marks.
 24. All documents relating or referring to any oral or written statements or inquiries by any person concerning any relationship or affiliation between Applicant and Opposer.
 25. Documents sufficient to identify the channels of trade and distribution through which each and every product under Applicant's Marks are/will be marketed and/or sold.
 26. Documents sufficient to identify all types of distributors and sellers for Applicant in connection with Applicant's Marks.
 27. Documents sufficient to identify the target consumer group for the products and intended products under Applicant's Marks, including documents sufficient to identify ten (10) representative types of purchasers and/or potential purchasers of the products and/or services under Applicant's Marks.
 28. All documents and things which identify all persons or entities that have a direct or beneficial ownership interest in Andale Energy Drink Co, LLC and all persons or entities in which Andale Energy Drink Co, LLC has a direct or beneficial ownership interest.

29. All documents and things which identify all past and current officers and directors of Andale Energy Drink Co, LLC.
30. All documents and things which evidence, refer or relate to any and all changes in the corporate structure, ownership structure, financial structure and management of Andale Energy Drink Co, LLC since its inception.
31. Documents sufficient to define the relationship between Jean Pierre Biane and Andale Energy Drink Co, LLC.
32. All documents and things which evidence, refer or relate to any connection between Jean Pierre Biane and Andale Energy Drink Co, LLC.
33. All documents and things (excluding correspondence to/from your attorney), not otherwise provided in response to the above, which refer or relate to this opposition proceeding. If all documents have already been included in response to the above, please indicate the Request(s) in response to which such document(s) were provided.
34. All documents Applicant intends to use or may use as evidence in this opposition proceeding.

Respectfully submitted,

RED BULL GMBH
By: /Martin R. Greenstein/
Martin R. Greenstein
Leah Z. Halpert
Angelique M. Riordan
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose, CA 95124-5273
Tel: 408- 266-4700 Fax: 408-850-1955
E-Mail: MRG@TechMark.com
Attorneys for Opposer

Dated: March 21, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCT OF DOCUMENTS AND THINGS TO APPLICANT** is being served on March 21, 2014, by first class mail, postage prepaid on Applicant's Correspondent of Record at the Correspondent's address of record below, with courtesy copy via email to Paulo@patelalmeida.com and Alex@patelalmeida.com:

Paulo A. de Almeida
Patel & Almeida, P.C.
16830 Ventura Blvd, Suite 360
Encino, CA 91436

/Leah Z. Halpert/
Leah Z. Halpert

Exhibit B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RED BULL GMBH,	)	Consolidated Opposition No. 91-204,861
	)	Opposition No. 91-204,861
Opposer	)	Opposition No. 91-210,860
)	
v.	)	Trademarks:
	)	ANDALE! ENERGY DRINK & Des (#85/334,836)
JEAN PIERRE BIANE and	)	ANDALE! & Design (#85/646,359)
ANDALE ENERGY DRINK CO	)	ANDALE! & Design (#85/646,316)
LLC,)	
	)	Serial Nos.:
	)	85/334,836
Applicant.	)	85/646,359
	)	85/646,316

OPPOSER’S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT

Pursuant to Trademark Rule of Practice Rule 2.120 and Federal Rule of Civil Procedure Rule 36, Opposer, Red Bull GmbH (“Red Bull”, or “Opposer”), hereby requests that Applicants, Jean Pierre Biane and Andale Energy Drink Co., LLC (hereinafter collectively referred to as “Applicant”) admit or deny the truth of the following matters, including the genuineness of any documents identified herein.

DEFINITIONS AND INSTRUCTIONS

The following definitions are an integral part of each and every request, and are incorporated therein by reference:

1. Use “on or in connection with” a product or service as used herein means use as a trademark in a manner sufficient to satisfy the use and maintenance requirements for registration of a mark under the Lanham Act.

2. Unless otherwise required by the context, the terms “You,” “Your,” or “Applicant” shall be understood to refer to Applicants, Jean Pierre Biane and Andale Energy Drink Co., LLC, their parent companies, subsidiaries, affiliates, related or controlled companies,

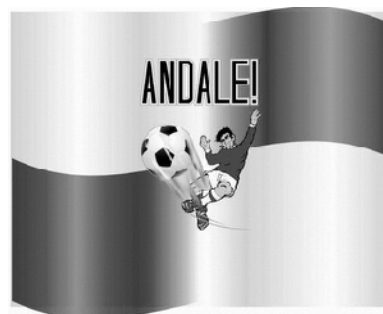
predecessors in title and/or interest, including successors and assigns, and all persons employed by any and all of the foregoing entities or individuals, including but not limited to attorneys, consultants, experts, investigators, agents, or other persons acting on behalf of or in concert with Applicant.

3. The terms “trademark,” “service mark,” and “mark” each include trademarks, service marks, trade names, corporate names and use of terms analogous to use as a trademark or service mark (and include use of a word or symbol alone or in combination with other words or symbols).

4. As used herein, “Applicant’s Marks” shall collectively mean, and include, the marks ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, and ANDALE! & 3-stripe Design of Appln. No. 85/646,359 (shown below), alone, together, or in combination with any other words, symbols, graphics or designs as a trademark, service mark, trade name, corporate name or otherwise.



Applicant’s mark of Appln. #85/334,836

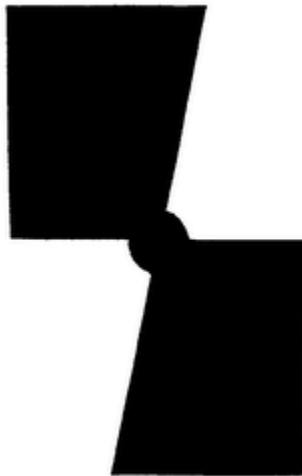


Applicant’s mark of Appln. #85/646,316



Applicant's mark of Appln. #85/646,359

5. As used herein, “Opposer’s 4-quadrant Design Mark” shall mean and include the mark of U.S. Trademark Registration No. 2,829,269 (as seen below):



Opposer’s 4-quadrant Design Mark of Reg. #2,829,269

6. Each of the Requests to Admit is propounded as to the Applicants, Jean Pierre Biane and Andale Energy Drink Co., LLC.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1

Prior to Applicant’s selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer.

REQUEST FOR ADMISSION NO. 2

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer.

REQUEST FOR ADMISSION NO. 3

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer.

REQUEST FOR ADMISSION NO. 4

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 5

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 6

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark..

REQUEST FOR ADMISSION NO. 7

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy drinks.

REQUEST FOR ADMISSION NO. 8

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy drinks.

REQUEST FOR ADMISSION NO. 9

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy drinks.

REQUEST FOR ADMISSION NO. 10

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy shots.

REQUEST FOR ADMISSION NO. 11

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy shots.

REQUEST FOR ADMISSION NO. 12

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy shots.

REQUEST FOR ADMISSION NO. 13

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with sports drinks.

REQUEST FOR ADMISSION NO. 14

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with sports drinks.

REQUEST FOR ADMISSION NO. 15

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with sports drinks.

REQUEST FOR ADMISSION NO. 16

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with soft drinks.

REQUEST FOR ADMISSION NO. 17

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with soft drinks.

REQUEST FOR ADMISSION NO. 18

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with soft drinks.

REQUEST FOR ADMISSION NO. 19

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy giving products.

REQUEST FOR ADMISSION NO. 20

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy giving products.

REQUEST FOR ADMISSION NO. 21

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy giving products.

REQUEST FOR ADMISSION NO. 22

At the time of filing Appln. No. 85/334,836, Applicant had not made any use in commerce of the mark ANDALE ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 on or in connection with "energy drinks", as set forth in Appln. No. 85/334,836.

REQUEST FOR ADMISSION NO. 23

Applicant had not made any use in commerce of the mark ANDALE ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 on or in connection with "energy drinks" on the March 23, 2011 first use date in commerce claimed in Appln. No. 85/334,836.

REQUEST FOR ADMISSION NO. 24

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, energy drinks", as set forth in Appln. No. 85/646,319.

REQUEST FOR ADMISSION NO. 25

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with "Non-alcoholic beverages, namely, energy drinks", as set forth in Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 26

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, energy shots", as set forth in Appln. No. 85/646,319.

REQUEST FOR ADMISSION NO. 27

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with “Non-alcoholic beverages, namely, energy shots”, as set forth in Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 28

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with “Non-alcoholic beverages, namely, sports drinks”, as set forth in Appln. No. 85/646,319.

REQUEST FOR ADMISSION NO. 29

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with “Non-alcoholic beverages, namely, sports drinks”, as set forth in Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 30

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with “Non-alcoholic beverages, namely, soft drinks”, as set forth in Appln. No. 85/646,319.

REQUEST FOR ADMISSION NO. 31

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with “Non-alcoholic beverages, namely, soft drinks”, as set forth in Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 32

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with “Non-alcoholic beverages, namely, bottled water”, as set forth in Appln. No. 85/646,319.

REQUEST FOR ADMISSION NO. 33

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with “Non-alcoholic beverages, namely, bottled water”, as set forth in Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 34

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are identical or substantially similar to Opposer’s goods under Opposer’s 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 35

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are identical or substantially similar to Opposer’s goods under Opposer’s 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 36

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are identical or substantially similar to Opposer’s goods under Opposer’s 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 37

Applicant’s ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 creates the same overall commercial impression as Opposer’s 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 38

Applicant's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316 creates the same overall commercial impression as Opposer’s 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 39

Applicant's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359 creates the same overall commercial impression as Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 40

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 41

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 42

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 43

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are intended to be advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 44

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are intended to be advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 45

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are intended to be advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 46

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 47

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 48

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 49

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are intended to be directed at the same

trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 50

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are intended to be directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 51

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are intended to be directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 52

There is a likelihood of confusion between Applicant's ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 and Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 53

There is a likelihood of confusion between Applicant's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316 and Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 54

There is a likelihood of confusion between Applicant's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359 and Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 55

Simultaneous use of Applicant's ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 and Opposer's 4-quadrant Design Mark is likely to cause confusion, mistake, and/or deception among customers, users, and/or the public as to the source of each mark's respective goods.

REQUEST FOR ADMISSION NO. 56

Simultaneous use of Applicant's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316 and Opposer's 4-quadrant Design Mark is likely to cause confusion, mistake, and/or deception among customers, users, and/or the public as to the source of each mark's respective goods.

REQUEST FOR ADMISSION NO. 57

Simultaneous use of Applicant's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359 and Opposer's 4-quadrant Design Mark is likely to cause confusion, mistake, and/or deception among customers, users, and/or the public as to the source of each mark's respective goods.

REQUEST FOR ADMISSION NO. 58

Appln. No. 85/334,836 falsely suggests a connection with Opposer and Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 59

Appln. No. 85/646,316 falsely suggests a connection with Opposer and Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 60

Appln. No. 85/646,359 falsely suggests a connection with Opposer and Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 61

Appln. No. 85/334,836 is identical to or a close approximation of Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 62

Appln. No. 85/646,316 is identical to or a close approximation of Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 63

Appln. No. 85/646,359 is identical to or a close approximation of Opposer's 4-quadrant Design Mark.

REQUEST FOR ADMISSION NO. 64

Opposer is not affiliated with Applicant or Applicant's activities.

REQUEST FOR ADMISSION NO. 65

Jean Pierre Biane took part in the creation, selection, and adoption of the mark of US Appln. No. 85/646,316 by Andale Energy Drink Co., LLC.

REQUEST FOR ADMISSION NO. 66

Jean Pierre Biane took part in the creation, selection, and adoption of the mark of US Appln. No. 85/646,359 by Andale Energy Drink Co., LLC.

REQUEST FOR ADMISSION NO. 67

Jean Pierre Biane knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to its seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316.

REQUEST FOR ADMISSION NO. 68

Jean Pierre Biane knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 69

Andale Energy Drink Co., LLC knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to its seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316.

REQUEST FOR ADMISSION NO. 70

Andale Energy Drink Co., LLC knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359.

REQUEST FOR ADMISSION NO. 71

The ANDALE! ENERGY DRINK & 4-quadrant Design Mark of Appln. 85/334,836 is under common ownership with the ANDALE! & 4-quadrant Design Mark of Appln. No. 85/646,316 and the ANDALE! & 3-stripe Design Mark of Appln. No. 85/646,316.

REQUEST FOR ADMISSION NO. 72

Andale Energy Drink Co., LLC is the owner of the domain andaleenergy.com.

REQUEST FOR ADMISSION NO. 73

Applicant's website is www.andaleenergy.com.

REQUEST FOR ADMISSION NO. 74

The domain, andaleenergy.com, is set to expire on April 13, 2014.

REQUEST FOR ADMISSION NO. 75

Currently, www.andaleenergy.com is not an active website.

REQUEST FOR ADMISSION NO. 76

Going to www.andaleenergy.com only leads to a holding page, hosted by Wix.com.

Respectfully submitted,

RED BULL GMBH
By: /Martin R. Greenstein/
Martin R. Greenstein
Leah Z. Halpert
Angelique M. Riordan
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose, CA 95124-5273
Tel: 408- 266-4700 Fax: 408-850-1955
E-Mail: MRG@TechMark.com
Attorneys for Opposer

Dated: March 21, 2014

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT** is being served on March 21, 2014, by first class mail, postage prepaid on Applicant's Correspondent of Record at the Correspondent's address of record below, with courtesy copy via email to Paulo@patelalmeida.com and Alex@patelalmeida.com:

Paulo A. de Almeida
Patel & Almeida, P.C.
16830 Ventura Blvd, Suite 360
Encino, CA 91436

/Leah Z. Halpert/
Leah Z. Halpert

Exhibit C

Subject: Fwd: Fwd: Red Bull GmbH v Jean Pierre Biane & Andale Energy Drink Co. - Consolidated Oppo #91-204,861 (consolidated with #91-210,860) (Our Ref: WS 6.010.992)
From: Leah Halpert <LZH@techmark.com>
Date: 4/21/2014 10:00 AM
To: Alex Patel <alex@patelalmeida.com>
CC: "Patel & Almeida, P.C." <paulo@patelalmeida.com>, "Martin R. Greenstein" <MRG@TechMark.com>, Angel Riordan <amr@techmark.com>

Dear Alex,

Please see the emails below to Paulo (in case he's out the office) regarding the discovery responses discussed with the Interlocutory Attorney in Oppo #91-204,861.

Regards,
Leah

Leah Z. Halpert | Associate
TechMark a Law Corporation
Trademark & Intellectual Property Law
4820 Harwood Road | 2nd Floor | San Jose, CA 95124
Tel: 408-266-4700 Fax: 408-850-1955
Email: LZH@TechMark.com

This e-mail message is the property of, (c)2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.

----- Original Message -----

Subject: Fwd: Red Bull GmbH v Jean Pierre Biane & Andale Energy Drink Co. - Consolidated Oppo #91-204,861 (consolidated with #91-210,860) (Our Ref: WS 6.010.992)
Date: Mon, 21 Apr 2014 09:39:40 -0700
From: Leah Halpert <LZH@techmark.com>
Organization: TechMark a Law Corporation
To: Patel & Almeida, P.C. <paulo@patelalmeida.com>
CC: Martin R. Greenstein <MRG@TechMark.com>, Angel Riordan <amr@techmark.com>

Dear Paulo,

In addition to my email below, if you have any concerns over what discovery must be responded to in accordance with today's Board order, please let us know and we can discuss further.

Best regards,
Leah

Leah Z. Halpert | Associate
TechMark a Law Corporation
Trademark & Intellectual Property Law
4820 Harwood Road | 2nd Floor | San Jose, CA 95124
Tel: 408-266-4700 Fax: 408-850-1955
Email: LZH@TechMark.com

This e-mail message is the property of, (c)2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.

----- Original Message -----

Subject:Red Bull GmbH v Jean Pierre Biane & Andale Energy Drink Co. - Consolidated Oppo
#91-204,861 (consolidated with #91-210,860) (Our Ref: WS 6.010.992)

Date:Fri, 18 Apr 2014 13:44:00 -0700

From:Leah Halpert <LZH@techmark.com>

Organization:TechMark a Law Corporation

To:Patel & Almeida, P.C. <paulo@patelalmeida.com>

CC:Martin R. Greenstein <MRG@TechMark.com>, Angel Riordan <amr@techmark.com>

Dear Paulo,

In accordance with the telephone call with the Interlocutory Attorney, and the Board's ruling on the matter, the following discovery requests do NOT pertain to Appln. No. 85/646,359 and must be responded to. To the extent that any of these below requests incorporate both Appln. No. 85/646,359 and either or both of the other oppose applications (as seen in the Requests for Production and Request to Admit #71), we only expect a response to the request as it pertains to the other applications not at issue in the Motion for Judgment on the Pleadings. For example, where the Request for Production ask for documents pertaining to "Applicant's Marks", we only expect a response in regard to Appln. Nos. 85/334,836 and 85/646,316.

Requests to Admit to be Responded to:

1, 2, 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22-24, 26, 28, 30, 32, 34, 35, 37, 38, 40, 41, 43, 44, 46, 47, 49, 50, 52, 53, 55, 56, 58, 59, 61, 62, 64, 65, 67, 69, 71-76

Requests for Production to be Responded to:

All

If you disagree with any of the above characterizations, please let us know and we can discuss further.

As stated during the phone call, we will serve this to you via first class mail today.

Best regards,

Leah

--

Leah Z. Halpert | Associate

TechMark a Law Corporation

Trademark & Intellectual Property Law

4820 Harwood Road | 2nd Floor | San Jose, CA 95124

Tel: 408-266-4700 Fax: 408-850-1955

Email: LZH@TechMark.com

This e-mail message is the property of, (c)2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.

Exhibit D

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RED BULL GMBH,)	
)	
Opposer,	)	Consolidated Opposition No.: 91-204,861
	)	Opposition No. 91-204,861
	)	Opposition No. 91-210,860
v.)	
	)	Serial No. 79/108,168
	)	Mark: ANDALE! ENERGY DRINK
JEAN PIERRE BIANE, and	)	(& Design) (Ser. No. 85/334,836)
ANDALE ENERGY DRINK CO., LLC	)	ANDALE! & Design (Ser. No. 85/646,316)
)	
Applicants.)	
)	

APPLICANT'S RESPONSES TO OPPOSER'S REQUEST FOR PRODUCTION OF

DOCUMENTS AND THINGS, SET ONE

PROPOUNDING PARTY: RED BULL GMBH

RESPONDING PARTY: JEAN PIERRE BIANE, and
ANDALE ENERGY DRINK CO., LLC

SET NUMBER: ONE

Pursuant to Federal Rules of Civil Procedure, Applicants JEAN PIERRE BIANE, and ANDALE ENERGY DRINK CO., LLC (hereinafter, "Applicant") hereby provide their Responses to Opposer, RED BULL GMBH's (hereinafter, "Opposer") Request for Production of Documents and Things, Set One, as follows:

PRELIMINARY STATEMENT

Applicant's responses to this first set of Requests for Production of Documents are based upon information presently known to Applicant. These responses are given without prejudice to Applicant's right to supplement or amend these responses following further discovery and investigation. Applicant also reserves the right to produce and use subsequently discovered

information in discovery, during testimony, in its briefs, and in support of or opposition to any motion. Further, the fact that Applicant produces any specific document in response to these Requests does not mean that Applicant consents to the authenticity or admissibility of such document, nor that such document is relevant to any issue in this case.

GENERAL OBJECTIONS

Applicant objects to Opposer's Requests for Production of Documents, including any definitions or instructions, to the extent that they purport to require any response beyond the scope of that required by the Federal Rules of Civil Procedure.

Applicant objects to each and every definition, instruction and request to the extent that it seeks information protected by the attorney-client privilege, the attorney work product doctrine or any other privilege recognized by applicable law. Without waiving and subject to such objections, Applicant will produce non-privileged documents responsive to appropriate requests, as indicated below.

Applicant objects to each and every definition, instruction and request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or information subject to a right of privacy under California or federal law. Applicant will provide such information only pursuant to the terms of an appropriate protective order entered in this case. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent.

Applicant further objects to these Requests to the extent they purport to request it to respond on behalf of other person(s). Applicant objects to these Requests to the extent they seek

information that is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to these Requests to the extent they contain compound questions or subparts, or are vague and ambiguous or otherwise improperly formulated pursuant to the Federal Rules of Civil Procedure. Applicant's responses to the Requests are made on behalf of Applicant and no other.

Applicant objects to Opposer's requests on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

The following responses are subject to the Preliminary Statement and foregoing general objections, all of which are incorporated by reference in each response as if set forth in full below:

RESPONSES

1. Documents sufficient to show all current and past advertising and promotional campaigns including, but not limited to, journals, catalogues, circulars, leaflets, direct mail pieces newspaper and magazine advertisements, telephone book advertisements, press releases and electronic media, and specimens sufficient to show all prototypes for said advertising and promotion.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of

Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

2. Documents sufficient to show all current and planned labels and packaging that may ultimately be seen by consumers, as well as all prototypes and/or drafts and sketches for said labels and packaging.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of

Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprovved by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

3. Documents sufficient to show the design process, creation and adoption of said labels, packaging, advertising, and promotional campaigns created or used by You or on Your behalf, bearing Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The

Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

4. Documents and things sufficient to show the creation, selection, and adoption process by You of Applicant's Marks and why the 4-quadrant design (as shown in Appln. No. 85/334,836), the 4-quadrant design (as shown in Appln. No. 85/646,316) and the 3-stripe design (as shown in Appln. No. 85/646,359) were chosen, including any documents and correspondence from any third party graphic designer or ad agency who created the mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The

Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

5. Documents sufficient to identify each person, including, but not limited to, employees of Applicant and its affiliates, involved in the decision to adopt, use and/or seek trademark registration protection for Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's

rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

6. All documents concerning any investigations to use or apply to register Applicant's Marks including, but not limited to clearance and investigative searches for service marks, trademarks, trade names, or corporate names.
RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by

the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

7. All documents referring to or discussing any correspondence, telephone calls, oral discussions, meetings, messages, SMS or text messages, e-mails or other communications or contacts with any person or entity (other than your attorneys) concerning Opposer, Opposer's 4-Quadrant Design Mark, or any similarity, conflict or confusion between Applicant's Marks and Opposer or Opposer's 4-Quadrant Design Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by

the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

8. All documents concerning Your first knowledge pertaining to Opposer or Opposer's 4-Quadrant Design Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that the phrase "your first knowledge" is vague and ambiguous. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been

publicly reproved by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

9. All documents referring to or discussing Your awareness of Opposer or Opposer's 4-Quadrant Design Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it is vague and ambiguous as to "awareness of Opposer or Opposer's 4-Quadrant Design Mark". Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin

Greenstein, has already been publicly reprov'd by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

10. All documents which evidence or support each of Applicant's admissions contained in its Answer to the Amended Notice Opposition for Opposition #91-204,861 (the "Parent Opposition").

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it contains terms or phrases that are vague and ambiguous. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business

information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

11. All documents which evidence or support each of Applicant's denials contained in its Answer to the Amended Notice of Opposition for the Parent Opposition.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it

contains terms or phrases that are vague and ambiguous. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

12. All documents which evidence or support each of Applicant's affirmative defenses contained in ,r,-r23 -27 and 31-34 of its Answer to the Amended Notice of Opposition for the Parent Opposition.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has

already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

13. All documents which evidence or support each of Applicant's admissions contained in its Answer to the Notice of Opposition for Opposition #91-210,860 (the "Child Opposition").

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant

and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

14. All documents which evidence or support each of Applicant's denials contained in its Answer to the Notice of Opposition for the Child Opposition.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with

reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

15. Documents sufficient to identify all types of products currently or previously offered, marketed or sold under Applicant's Marks, by You or on Your behalf.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this

request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law. Applicant objects to this request on the grounds that the documents sought are equally available to Opposer.

16. All documents and things concerning or relating to all current, commercial use by You of Applicant's Marks on any goods or services.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law. Applicant objects to this request to the extent it seeks documents that are equally available to Opposer.

17. Documents sufficient to identify all the types of products or services planned to be

offered, marketed or sold under Applicant's Marks, by You or on Your behalf.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

18. Documents sufficient to evidence any marketing or sales meetings, both prior to the time of filing and since filing Applicant's Marks, regarding the future marketing or sale of products and/or services under Applicant's Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

19. Documents sufficient to evidence any authorization, license, contract, or permission between Jean Pierre Biane and/or any individual an/or entity (including Opposer) by which Andale Energy Drink Co., LLC is given rights to distribute goods bearing Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other

privilege recognized by applicable law.

20. Documents sufficient to evidence any assignment, consent, authorization, license, contract, loan, security agreement, or permission between Jean Pierre Biane and/or any individual and/or entity (including Opposer) by which Andale Energy Drink Co., LLC granted or acquired rights and/or permission to use and/or register Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the

Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

21. Documents sufficient to evidence, refer or relate to any objection, cease and desist letter or complaint relating to the marks of Appln. Nos. 85/334,836, 85/646,316 and 85/646,359, however used, both prior to filing or since filing Applicant's Marks, by or on behalf of any person or entity, whether brought by or against Applicant or any affiliate.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case.

The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

22. All documents which refer or relate to any administrative proceedings or litigation, in the courts, the U.S. Patent and Trademark Office or elsewhere, involving the marks of Appln. Nos. 85/334,836, 85/646,316 and 85/646,359, whether brought by or against Applicant or any affiliate.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation

of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law. Applicant objects to this request on the grounds that it calls for information which is equally available to Opposer.

23. All documents relating or referring to any instance in which Applicant has been aware of, or made aware of, a person being confused, mistaken, or deceived as to the source of Applicant's products or services advertised, promoted offered for sale or sold using the marks of Appln. Nos. 85/334,836, 85,646,3 16 and 85/646,359, whether brought prior to filing or since filing Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by

the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

24. All documents relating or referring to any oral or written statements or inquiries by any person concerning any relationship or affiliation between Applicant and Opposer.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr.

Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

25. Documents sufficient to identify the channels of trade and distribution through which each and every product under Applicant's Marks are/will be marketed and/or sold.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by

the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent it calls for information equally available to Opposer.

26. Documents sufficient to identify all types of distributors and sellers for Applicant in connection with Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by

the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law. Applicant objects to this request to the extent it calls for information equally available to Opposer.

27. Documents sufficient to identify the target consumer group for the products and intended products under Applicant's Marks, including documents sufficient to identify ten (10) representative types of purchasers and/or potential purchasers of the products and/or services under Applicant's Marks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it contains terms or phrases that are vague and ambiguous. Applicant objects to this request to the

extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

28. All documents and things which identify all persons or entities that have a direct or beneficial ownership interest in Andale Energy Drink Co, LLC and all persons or entities in which Andale Energy Drink Co, LLC has a direct or beneficial ownership interest.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it is

vague and ambiguous as to "direct and beneficial ownership interest". Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

29. All documents and things which identify all past and current officers and directors of Andale Energy Drink Co, LLC.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit

from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

30. All documents and things which evidence, refer or relate to any and all changes in the corporate structure, ownership structure, financial structure and management of Andale Energy Drink Co, LLC since its inception.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the

request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

31. Documents sufficient to define the relationship between Jean Pierre Biane and Andale Energy Drink Co, LLC.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant

and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it is vague and ambiguous as to "relationship". Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law. Applicant objects to this request to the extent it calls for information equally available to Opposer.

32. All documents and things which evidence, refer or relate to any connection between Jean Pierre Biane and Andale Energy Drink Co, LLC.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request on the grounds that it is vague and ambiguous as to "connection". Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law. Applicant objects to this request to the extent it seeks information equally available to Opposer.

33. All documents and things (excluding correspondence to/from your attorney), not otherwise provided in response to the above, which refer or relate to this opposition proceeding. If all documents have already been included in response to the above, please indicate the Request(s) in response to which such document(s) were provided.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions. Applicant objects to this request to the extent that it seeks

information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

34. All documents Applicant intends to use or may use as evidence in this opposition proceeding.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the documents to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. In particular, the request is unduly burdensome because it seeks information pertaining to facts which Applicant has already admitted and is therefore cumulative and/or Opposer could not possibly gain any benefit from the information and/or the benefit to be gained is vastly outweighed by the burden and expense of production by Applicant. Applicant objects to this request to the extent it seeks information containing trade secret or other proprietary or confidential business information of Applicant, or that is subject to Applicant's right of privacy under California or federal law. The Board's standard protective order entered in this case is not sufficiently protective of Applicant's rights. Specifically, Opposer's counsel, Martin Greenstein, has already been publicly reprimanded by the California State Bar for violating ethical rules applicable to attorneys. In addition, Mr. Greenstein has already committed violations of ethical and federal rules governing attorney conduct during the course of this proceeding. On the basis thereof, Applicant has reason to believe that Opposer's counsel will not safeguard Applicant's confidential information, and that a violation of the Board's standard protective order is imminent. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the

Board's decision on the motions. Applicant objects to this request to the extent that it seeks information protected by the attorney-client privilege, the work product doctrine or any other privilege recognized by applicable law.

Dated as of: April 25, 2014

By: /Paulo A. de Almeida/
Paulo A. de Almeida
Alex D. Patel
Michael W. Schroeder
Patel & Almeida, P.C.
16830 Ventura Blvd., Suite 360
Encino, CA 91436
(818) 380-1900

Attorneys for Applicants,
Andale Energy Drink Co. LLC, and
Jean Pierre Biane

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** has been served on Martin R. Greenstein, counsel for Opposer, on April 25, 2014 via First Class U.S. Mail, postage prepaid to:

Martin R. Greenstein
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose, CA 95124-5273

By: /Paulo A. de Almeida/
Paulo A. de Almeida

Exhibit E

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

RED BULL GMBH,	)	Consolidated Opposition No.: 91-204,861
	)	Opposition No. 91-204,861
Opposer,	)	Opposition No. 91-210,860
)	
v.	)	Serial No. 79/108,168
	)	Mark: ANDALE! ENERGY DRINK
JEAN PIERRE BIANE, and	)	(& Design) (Ser. No. 85/334,836)
ANDALE ENERGY DRINK CO., LLC	)	ANDALE! & Design (Ser. No. 85/646,316)
Applicants.)	
)	
)	

**APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR
ADMISSION**

PROPOUNDING PARTY: RED BULL GMBH

RESPONDING PARTY: JEAN PIERRE BIANE, and ANDALE ENERGY DRINK
CO., LLC

SET NUMBER: ONE

Applicants, JEAN PIERRE BIANE, and ANDALE ENERGY DRINK
CO., LLC (hereinafter "Applicant") responds to Opposer, RED BULL GMBH's
(hereinafter "Opposer") Requests for Admission, Set Number One, as follows:

PRELIMINARY STATEMENT

1. Applicant has not yet completed its discovery relating to this action, and its investigation of the facts is continuing. Applicant's responses to these discovery requests, therefore, are made without prejudice to Applicant's right to supplement its identification and production of documents, its responses to these and other requests, and other evidence of any kind in the proceedings of this action, pursuant to Fed. R. Civ. P. 26(e).

2. Applicant has responded to these discovery requests as it interprets each request set forth therein. If Opposer subsequently asserts an interpretation of any request that differs from Applicant's understanding of that request, Applicant reserves the right to supplement its objections and/or responses.

GENERAL OBJECTIONS

The following General Objections should be interpreted to apply to each individual request as if set forth in the response thereto:

1. Applicant objects to the requests, as well as the definition of terms and instructions thereto, to the extent that Opposer seeks to impose an obligation greater than that imposed by the relevant Federal Rules of Civil Procedure or other applicable law. Responses will be provided to the extent required by the applicable rules.

2. Applicant objects to the requests, as well as the definition of terms and instructions thereto, to the extent that Opposer seeks information protected by the attorney work product doctrine, the attorney-client privilege, or other privilege or immunity. Such information or documents will not be produced.

3. Applicant objects to the requests, as well as the instructions and definitions thereto, to the extent that Opposer seeks information subject to a confidentiality obligation or protective order involving a non-party and for which disclosure would violate Applicant's confidentiality obligation to the non-party.

4. Applicant objects to the requests to the extent that they seek information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence with respect to any claim or defense to this action, or otherwise seek discovery beyond the scope of Federal Rule 26(b).

5. Applicant will not disclose information that constitutes trial preparation materials prepared in anticipation of litigation or information otherwise protected from discovery pursuant to the Federal Rules of Civil Procedure and federal common law.

6. Applicant objects to the requests, as well as the instructions and definitions thereto, on the grounds that Opposer seeks information that is so broad and vague both as to time and subject matter that it places an onerous burden on Applicant to ascertain what information is sought so that Applicant may respond.

7. Applicant objects to the requests, as well as the instructions and definitions thereto, to the extent they call for information that is a matter of public record or is equally available or readily ascertainable by Opposer from another source.

8. Applicant objects to the requests, as well as the instructions and definitions thereto, to the extent that the information sought is unreasonably cumulative, redundant, or duplicative of other discovery requests or of facts already admitted.

10. Applicant objects to Opposer's requests on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

11. Applicant objects to Opposer's requests to the extent they call for information in the possession, custody and/or control of any other corporate entity or other business form other than Applicant, and to any person other than Applicant's present employees, officers, directors or agents.

Subject to and without waiving these General Objections, Applicant provides the following responses to Opposer's requests for admissions:

RESPONSES

REQUEST FOR ADMISSION NO.1

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.2

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 3

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.4

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.5

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.6

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln . No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are

potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.7

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.8

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous

as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO.9

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 10

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy shots.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify

with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 11

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy shots.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 12

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy shots.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 13

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with sports drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 14

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with sports drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 15

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with sports drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment

on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 16

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with soft drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 17

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with soft drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which

is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 18

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with soft drinks.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 19

Prior to Applicant's selection of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy giving products.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 20

Prior to Applicant's selection of the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy giving products.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 21

Prior to Applicant's selection of the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359, Applicant had actual knowledge of Opposer's 4-quadrant Design Mark as used in connection with energy giving products.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that it is vague and ambiguous as to "actual knowledge of Opposer's 4-quadrant Design Mark". Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 22

At the time of filing Appln. No. 85/334,836, Applicant had not made any use in commerce of the mark ANDALE ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 on or in connection with "energy drinks", as set forth in Appln. No. 85/334,836.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and

therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 23

Applicant had not made any use in commerce of the mark ANDALE ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 on or in connection with "energy drinks" on the March 23, 2011 first use date in commerce claimed in Appln. No. 85/334,836.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 24

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, energy drinks", as set forth in Appln. No. 85/646,319.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all

three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 25

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with "Non-alcoholic beverages, namely, energy drinks", as set forth in Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 26

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, energy shots", as set forth in Appln. No. 85/646,319.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two

motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 27

Prior to the filing of Appln. No. 85 /646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with "Non-alcoholic beverages, namely, energy shots", as set forth in Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 28

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, sports drinks", as set forth in Appln. No. 85 /646,319.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible

evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 29

Prior to the filing of Appln. No. 85 /646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with "Non-alcoholic beverages, namely, sports drinks", as set forth in Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 30

Prior to the filing of Appln. No. 85/646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, soft drinks", as set forth in Appln. No. 85/646,319.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which

is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 31

Prior to the filing of Appln. No. 85 /646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with "Non-alcoholic beverages, namely, soft drinks", as set forth in Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 32

Prior to the filing of Appln. No. 85 /646,316, Applicant had no use in commerce of the ANDALE! & 4-quadrant Design mark on or in connection with "Non-alcoholic beverages, namely, bottled water", as set forth in Appln. No. 85/646,319.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which

is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 33

Prior to the filing of Appln. No. 85/646,359, Applicant had no use in commerce of the ANDALE! & 3-stripe Design mark on or in connection with "Non-alcoholic beverages, namely, bottled water", as set forth in Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 34

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85 /334,836 are identical or substantially similar to Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 35

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are identical or substantially similar to Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 36

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are identical or substantially similar to Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 37

Applicant's ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 creates the same overall commercial impression as Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 38

Applicant's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316 creates the same overall commercial impression as Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 39

Applicant's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359 creates the same overall commercial impression as Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 40

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY

DRINK & 4-quadrant Design of Appln. No. 85/334,836 are advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 41

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 42

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 43

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are intended to be advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and

therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 44

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are intended to be advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 45

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are intended to be advertised and promoted to the same purchasers as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two

motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 46

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 47

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 48

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appin. No. 85/646,359 are directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

REQUEST FOR ADMISSION NO. 49

RESPONSE:

Admitted.

The goods on which Applicant asserts a bona fide use of the mark ANDALE! ENERGY DRINK & 4-quadrant Design of Appln. No. 85/334,836 are intended to be directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 50

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 4-quadrant Design of Appln. No. 85/646,316 are intended to be directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 51

The goods on which Applicant asserts a bona fide intent-to-use the mark ANDALE! & 3-stripe Design of Appln. No. 85/646,359 are intended to be directed at the same trade channels as Opposer's goods under Opposer's 4-quadrant Design Mark of Reg. No. 2,829,269.

RESPONSE:

Admitted.

REQUEST FOR ADMISSION NO. 52

There is a likelihood of confusion between Applicant's ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 and Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 53

There is a likelihood of confusion between Applicant's ANDALE! & 4-quadrant Design mark of Appin. No. 85/646,316 and Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 54

There is a likelihood of confusion between Applicant's ANDALE! & 3-stripe Design mark of Appin. No. 85/646,359 and Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 55

Simultaneous use of Applicant's ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appin. No. 85/334,836 and Opposer's 4-quadrant Design Mark is likely to cause confusion, mistake, and/or deception among customers, users, and/or the public as to the source of each mark's respective goods.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 56

Simultaneous use of Applicant's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316 and Opposer's 4-quadrant Design Mark is likely to cause confusion, mistake, and/or deception among customers, users, and/or the public as to the source of each mark's respective goods.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 57

Simultaneous use of Applicant's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359 and Opposer's 4-quadrant Design Mark is likely to cause confusion, mistake, and/or deception among customers, users, and/or the public as to the source of each mark's respective goods.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 58

Appln. No. 85/334,836 falsely suggests a connection with Opposer and Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 59

Appln. No. 85/646,316 falsely suggests a connection with Opposer and Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 60

Appln. No. 85/646,359 falsely suggests a connection with Opposer and Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 61

Appln. No. 85/334,836 is identical to or a close approximation of Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 62

Appln. No. 85/646,316 is identical to or a close approximation of Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 63

Appln. No. 85/646,359 is identical to or a close approximation of Opposer's 4-quadrant Design Mark.

RESPONSE:

Denied.

REQUEST FOR ADMISSION NO. 64

Opposer is not affiliated with Applicant or Applicant's activities.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible

evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 65

Jean Pierre Biane took part in the creation, selection, and adoption of the mark of US Appln. No. 85/646,316 by Andale Energy Drink Co., LLC.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 66

Jean Pierre Biane took part in the creation, selection, and adoption of the mark of US Appln. No. 85/646,359 by Andale Energy Drink Co., LLC.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible

evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 67

Jean Pierre Biane knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to its seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 68

Jean Pierre Biane knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 69

Andale Energy Drink Co., LLC knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to its seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 4-quadrant Design mark of Appln. No. 85/646,316.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 70

Andale Energy Drink Co., LLC knew of the conflict between Red Bull GmbH and Jean Pierre Biane over the ANDALE! ENERGY DRINK & 4-quadrant Design mark of Appln. No. 85/334,836 prior to seeking trademark protection for Andale Energy Drink Co., LLC's ANDALE! & 3-stripe Design mark of Appln. No. 85/646,359.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 71

The ANDALE! ENERGY DRINK & 4-quadrant Design Mark of Appln. 85/334,836 is under common ownership with the ANDALE! & 4-quadrant Design Mark of Appln. No. 85/646,316 and the ANDALE! & 3-stripe Design Mark of Appln. No. 85/646,316.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 72

Andale Energy Drink Co., LLC is the owner of the domain andaleenergy.com.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 73

Applicant's website is www.andaleenergy.com.

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 74

The domain, andaleenergy.com, is set to expire on April 13, 2014.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify

with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 75

Currently, www.andaleenergy.com is not an active website.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

REQUEST FOR ADMISSION NO. 76

Going to www.andaleenergy.com only leads to a holding page. hostedbyWix.com.

RESPONSE:

Applicant incorporates the General Objections raised above. Applicant objects to this request on the grounds that it is overbroad, unduly burdensome, and does not specify with reasonable particularity the information to be produced and seeks information which

is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Applicant objects to this request on the grounds that there are currently two motions for judgment on the pleadings pending in this case. The motions pertain to all three opposed marks. The motions are potentially dispositive of the proceeding, and therefore Applicant need not respond to discovery, which may be moot upon the Board's decision on the motions.

Dated as of: April 25, 2014

By: /Paulo A. de Almeida/
Paulo A. de Almeida
Alex D. Patel
Patel & Almeida, P.C.
16830 Ventura Blvd., Suite 360
Encino, CA 91436
(818) 380-1900

Attorneys for Applicants,
Andale Energy Drink Co. LLC, and
Jean Pierre Biane

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S
RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSIONS**
has been served on Martin R. Greenstein, counsel for Opposer, on April 25, 2014 via
First Class U.S. Mail, postage prepaid to:

Martin R. Greenstein
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose, CA 95124-5273

By: /Paulo A. de Almeida/
Paulo A. de Almeida

Exhibit F

Subject: Fwd: Re: Fwd: Re: Red Bull v Jean Pierre Biane & Andale Energy Drink Co Consolidated Oppo
#91-204,861 (consolidated with #91-210,860)
From: Leah Halpert <LZH@techmark.com>
Date: 8/21/2014 4:29 PM
To: "Patel & Almeida, P.C." <paulo@patelalmeida.com>
CC: Alex Patel <alex@patelalmeida.com>, "Martin R. Greenstein" <MRG@TechMark.com>, Angel
Riordan <amr@techmark.com>

Paulo,

We will call you Tuesday, August 26, 2014 at 1:00 pm.

Regards,
Leah

Leah Z. Halpert | Associate

TechMark a Law Corporation
Trademark & Intellectual Property Law
4820 Harwood Road | 2nd Floor | San Jose, CA 95124
Tel: 408-266-4700 Fax: 408-850-1955
Email: LZH@TechMark.com

=====

This e-mail message is the property of, (c)2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.

----- Original Message -----

Subject:Re: Fwd: Re: Red Bull v Jean Pierre Biane & Andale Energy Drink Co Consolidated Oppo
#91-204,861 (consolidated with #91-210,860)
Date:Thu, 21 Aug 2014 15:53:11 -0700
From:Patel & Almeida, P.C. <paulo@patelalmeida.com>
To:Leah Halpert <LZH@techmark.com>
CC:Alex Patel <alex@patelalmeida.com>, Martin R. Greenstein <MRG@TechMark.com>, Angel
Riordan <amr@techmark.com>

Leah:

Tuesday at 1:00 p.m. or later would be best.

Very truly yours,

Paulo A. de Almeida
Attorney at Law
Patel & Almeida, P.C.
paulo@patelalmeida.com
www.patelalmeida.com

tel: 818.380.1900

fax: 818.380.1908

**** CONFIDENTIALITY NOTICE:** This e-mail message may contain legally privileged and confidential information exempt or prohibited from disclosure under applicable law. If you are not the intended recipient of this e-mail, please notify this sender immediately and do not deliver, distribute or copy this e-mail, or disclose its contents or take any action in reliance on the information it contains.

From: [Leah Halpert](#)

Sent: Thursday, August 21, 2014 3:41 PM

To: [Patel & Almeida, P.C.](#)

Cc: [Alex Patel](#) ; [Martin R. Greenstein](#) ; [Angel Riordan](#)

Subject: Fwd: Re: Red Bull v Jean Pierre Biane & Andale Energy Drink Co Consolidated Oppo #91-204,861 (consolidated with #91-210,860)

Dear Paulo,

Please let us know your availability for a meet & confer to discuss Applicant's discovery responses. We're available tomorrow (Friday), Monday or Tuesday after 1:00pm. Please let us know what is best for you.

Best regards,
Leah

Leah Z. Halpert | Associate

TechMark a Law Corporation

Trademark & Intellectual Property Law

4820 Harwood Road | 2nd Floor | San Jose, CA 95124

Tel: 408-266-4700 Fax: 408-850-1955

Email: LZH@TechMark.com

=====

This e-mail message is the property of, (c)2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.

----- Original Message -----

Subject: Re: Red Bull v Jean Pierre Biane & Andale Energy Drink Co Consolidated Oppo #91-204,861 (consolidated with #91-210,860)

Date: Wed, 7 May 2014 16:52:00 -0700

From: Patel & Almeida, P.C. <mailto:paulo@patelalmeida.com>

To: Martin R Greenstein <mailto:MRG@TechMark.com>, Alex Patel
<mailto:alex@patelalmeida.com>

CC: Leah Halpert <mailto:LZH@TechMark.com>, Angel Riordan <mailto:AMR@TechMark.com>

Martin:

Applicant has already complied with the Board's order re: discovery. Applicant's discovery responses include numerous valid objections that have nothing to do with the pendency of Applicant's MJP.

As you acknowledge in your email, this proceeding is suspended. If you believe Applicant's responses are deficient and you plan to file a motion to compel, you need to wait until the proceeding is resumed.

Very truly yours,

Paulo A. de Almeida
Attorney at Law
Patel & Almeida, P.C.
paulo@patelalmeida.com
www.patelalmeida.com
tel: 818.380.1900
fax: 818.380.1908

**** CONFIDENTIALITY NOTICE:** This e-mail message may contain legally privileged and confidential information exempt or prohibited from disclosure under applicable law. If you are not the intended recipient of this e-mail, please notify this sender immediately and do not deliver, distribute or copy this e-mail, or disclose its contents or take any action in reliance on the information it contains.

From: [Martin R Greenstein](#)
Sent: Wednesday, May 07, 2014 3:54 PM
To: [Paulo de Almeida](#) ; [Alex Patel](#)
Cc: [Leah Halpert](#) ; [Angel Riordan](#)
Subject: Red Bull v Jean Pierre Biane & Andale Energy Drink Co Consolidated Oppo #91-204,861 (consolidated with #91-210,860)

Paulo:

The Board's Order of April 21, 2014 directed you to serve responses, by April 25, 2014, to those discovery requests which seek information and documents with respect to applications Serial No. 85334836 and/or Serial No. 85646316. Your "responses" consisted almost exclusively of objections, virtually all of which were, in our view, neither appropriate nor based on any valid law. To the extent your objections included and/or were based on your claim that the second Motion for Partial Judgment on the Pleadings suspended proceedings and relieved you of responsibility to respond even as to those two applications, that argument was rejected by the Board's subsequent Order of May 5, 2014. That Order reconfirmed the suspension and that your Motion of April 25, 2014 was not properly before the Board and was to be given no consideration at this time. That claimed basis for not fully and properly responding is invalid, so does not need to be part of the "meet & confer" discussions.

Please advise when you are available for a telephonic "meet & confer" so we can make a good faith effort to resolve our differences on the remaining objections, in order that we can move forward with the discovery which the Board ordered you to respond to on April 21, 2014. Leah Halpert and/or Angel Riordan (copied here) can coordinate timing with you.

Regards,
Marty

--

Martin R. Greenstein
TechMark a Law Corporation
Trademark & Intellectual Property Law
4820 Harwood Road, 2nd Floor, San Jose, CA 95124-5273
Tel: 1-408-266-4700 Fax: 1-408-850-1955

E-Mail: <mailto:mrg@techmark.com%20target=>

No trees were killed in the sending of this message.

However, a large number of electrons were terribly inconvenienced.

=====

This e-mail message is the property of, and ©2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.

Exhibit G

Subject: Re: WS 6.010.992 & 6.013.939-US-Consolidated Oppo #91-204,861 (consolidated with #91-210,860)-Oppos ag ANDALE! Energy Drink & Des #85/334,836 & ANDALE! & Four Quadrant Des #85/646,316

From: "Patel & Almeida, P.C." <paulo@patelalmeida.com>

Date: 8/26/2014 3:18 PM

To: "Martin R Greenstein" <MRG@TechMark.com>

CC: "Leah Halpert" <LZH@techmark.com>, "Alex Patel" <alex@patelalmeida.com>

Martin:

Since you insist on filing a motion to compel, I'd also like to add that I proposed *stipulating* to the relatedness of the goods and marketing/trade channels – thereby eliminating the need for cumulative discovery on those issues and your motion to compel – but you repeatedly refused. It is clear that you intend to engage the Board in an unnecessary discovery dispute, and that you have not made any attempt to meet and confer in good faith. I even offered to resume the meet and confer, but based on your last email, you have apparently refused.

Very truly yours,

Paulo A. de Almeida
Attorney at Law
Patel & Almeida, P.C.
paulo@patelalmeida.com
www.patelalmeida.com
tel: 818.380.1900
fax: 818.380.1908

**** CONFIDENTIALITY NOTICE:** This e-mail message may contain legally privileged and confidential information exempt or prohibited from disclosure under applicable law. If you are not the intended recipient of this e-mail, please notify this sender immediately and do not deliver, distribute or copy this e-mail, or disclose its contents or take any action in reliance on the information it contains.

From: [Martin R Greenstein](#)

Sent: Tuesday, August 26, 2014 2:54 PM

To: [P.C.](#)

Cc: [Alex Patel](#) ; [Leah Halpert](#) ; [Angel Riordan](#) ; [Derek Palmer-TechMark](#)

Subject: WS 6.010.992 & 6.013.939-US-Consolidated Oppo #91-204,861 (consolidated with #91-210,860)-Oppos ag ANDALE! Energy Drink & Des #85/334,836 & ANDALE! & Four Quadrant Des #85/646,316

Paulo:

I agree that we (Leah Halpert and I for opposer, you for applicant) commenced a previously scheduled "meet & confer" at 1:00pm today. I strongly disagree with the remainder of your statements (including your subject line) and your various characterizations, which are factually incorrect and from which you then draw incorrect inferences and conclusions - which, by the way, are all unrelated to the issues in the case and the purpose of our "meet & confer" discovery conference.

I would only add that when I raised the issue of possible settlement on the previously discussed terms now that the one "sticking point" had been removed by the Board's ruling on our motion for judgment on the pleadings, you made it very clear that your client was no longer interested in settlement and that your previous proposal was now withdrawn.

I do agree that you "terminated our meet and confer" at the end of our discussion, and you then invited me to proceed with the discovery motion I had described.

Regards,
Marty Greenstein

----- Original Message -----

Subject: Andale Opposition; Proceeding No. 91204861; Improper threats of litigation during meet and confer

Date: Tue, 26 Aug 2014 14:23:57 -0700

From: Patel & Almeida, P.C. <mailto:paulo@patelalmeida.com>

To: Martin R. Greenstein <mailto:MRG@TechMark.com>

CC: Alex Patel <mailto:alex@patelalmeida.com>

Martin:

This email is to confirm that at approximately 1:00 p.m. today, we attempted to meet and confer regarding discovery in the above-referenced opposition. At approximately 1:10 p.m., you accused "my firm" of "libel" on the grounds that we asserted a valid objection (in a discovery response) to production of commercially sensitive documents on the basis that you were already publicly reprovved by the California State Bar and violated other rules governing attorney conduct such as F.R.C.P. Rule 11 (e.g., for filing frivolous papers); and therefore the confidentiality of my client's documents would not be adequately safeguarded in your possession. You also stated that "***we will deal with this in another forum***". You then twice demanded that I "***withdraw the objection***" under your threat of unrelated litigation.

We take your allegation of "libel" coupled with the statement "we will deal with this in another forum" as a highly improper threat of litigation. Further, our allegation that you were publicly reprovved is true because the California State Bar website shows: "Public reprovval with/duties" and references case no. 93-O-11522.

In response to your improper threat of litigation unrelated to this case, I terminated our meet and confer.

We are amenable to resuming the meet and confer tomorrow to discuss discovery in this case.

Very truly yours,

Paulo A. de Almeida
Attorney at Law
Patel & Almeida, P.C.
paulo@patelalmeida.com
www.patelalmeida.com
tel: 818.380.1900
fax: 818.380.1908

**** CONFIDENTIALITY NOTICE:** This e-mail message may contain legally privileged and confidential information exempt or prohibited from disclosure under applicable law. If you are not the intended recipient of this e-mail, please notify this sender immediately and do not deliver, distribute or copy this e-mail, or disclose its contents or take any action in reliance on the information it contains.

--

Martin R. Greenstein
TechMark a Law Corporation
Trademark & Intellectual Property Law
4820 Harwood Road, 2nd Floor, San Jose, CA 95124-5273
Tel: 1-408-266-4700 Fax: 1-408-850-1955
E-Mail: <mailto:mrg@techmark.com%20target=>

No trees were killed in the sending of this message.

However, a large number of electrons were terribly inconvenienced.

=====

This e-mail message is the property of, and ©2014 TechMark. It is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is strictly prohibited. If you are not the intended recipient, please contact sender by reply e-mail and destroy all copies of the original message.